

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. 10-CR -2734 JCH

JOHN CHARLES McCLUSKEY,

Defendant.

**DEFENDANT McCLUSKEY'S NOTICE CONFIRMING HIS INTENT TO
INTRODUCE MENTAL HEALTH EVIDENCE AT THE ELIGIBILITY
AND SELECTION PHASES**

COMES NOW, the Defendant John Charles McCluskey, by and through his counsel of record, Michael Burt, Theresa Duncan, and Gary Mitchell, and pursuant to Federal Rules of Criminal Procedure Rule 12(b)(1) and (b)(2), and this Court's orders of September 9, 2011 [Doc. 219], June 26, 2013 [Doc. 1061], and October 16, 2013 (RT of proceedings with firewall counsel) hereby confirms his intent to introduce mental health evidence at the eligibility and selection phases of this case, as outlined in his original 12.2 notice [Doc. 835], in his first amended notice [Doc. 1086], and in his second amended notice [Doc. 1231]. Notice is also hereby given that pursuant to this Court's order of September 9, 2011 [Doc. 219], no later than 24 hours after release of the reports of any examinations by the Government

experts, which occurred on October 18, 2013 at 10:24 am MDT, the report or reports of any defense experts will be released to counsel for the Government.

The defendant reserves the right to modify and supplement this amended notice as necessary.

Dated: October 19, 2013

Respectfully submitted,

/s/ Michael N. Burt

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Attorneys for Defendant John McCluskey

CERTIFICATE OF SERVICE

I hereby certify that on October 19, 2013, a true and accurate copy of the foregoing pleading was emailed to counsel of record by CM/ECF.

/s/ Michael N. Burt
Michael N. Burt